

## Internal Revenue Service, Treasury

## § 48.4217-1

Computation as of close of first calendar quarter	
4. Over-all 5 percent limitation (5 percent of item 3) .....	\$5,000
5. Amount excluded in computing taxable price (see paragraph (c) of § 48.4216(e)-1) .....	5,000
6. Unused portion of limitation .....	\$0
7. Allocation, pursuant to agreement, of \$3,000 paid to distributors:	
Charges for local advertising .....	\$2,000
Contributions by manufacturer .....	1,000

Credit or refund may not be claimed in respect of that portion of the total amount repaid to the distributors (\$3,000) which is allocated to the manufacturer's contribution (\$1,000) since the amount excluded in computing taxable price is equal to the over-all 5 percent limitation.

[T.D. 6635, 28 FR 1203, Feb. 7, 1963. Redesignated and amended by T.D. 7536, 43 FR 13520, Mar. 31, 1978]

**§ 48.4216(e)-3 No exclusion or readjustment for other advertising charges or reimbursements.**

(a) *Exclusions from price.* No exclusion in computing the taxable price of any article sold by the manufacturer may be allowed in respect of any charge for advertising if, and to the extent that, such charge:

(1) Is for advertising which does not qualify as local advertising within the meaning of section 4216(e)(4) and paragraphs (a) and (b) of § 48.4216(e)-1, or

(2) Does not satisfy all of the conditions and limitations stated in section 4216(e)(1) and paragraph (c) of § 48.4216(e)-1.

(b) *Readjustments of price.* No credit or refund under section 6416(b)(1) may be allowed in respect of any amount which was included in the taxable price of an article sold by the manufacturer and which was later paid by him to his vendee in reimbursement of costs incurred for advertising, if, and to the extent that, the amount so paid:

(1) Is for advertising which does not qualify as local advertising within the meaning of section 4216(e)(4) and paragraph (b) of § 48.4216(e)-1, or

(2) Is not within the limitation provided in section 4216(e)(2), as computed in accordance with § 48.4216(e)-2, as of the close of the calendar quarter in which the amount is so paid over or as of the close of any subsequent calendar quarter in the same calendar year. See, however, paragraph (c)(2)(ii) of § 48.6416(b)-1, relating to redetermina-

tion of price readjustments in cases where local advertising charges excluded from taxable price in one calendar year become taxable as of May 1 of the following calendar year.

[T.D. 6686, 28 FR 11411, Oct. 24, 1963. Redesignated and amended by T.D. 7536, 43 FR 13521, Mar. 31, 1978]

**§ 48.4216(f)-1 Value of used components excluded from price of certain trucks.**

For purposes of the tax imposed by section 4061(a)(1) (relating to trucks, buses, etc.), in determining the price for which an article is sold, the value of any previously used component of such article shall be excluded from the price if the person furnishing the component is the first user of the finished article. For example, where a manufacturer builds a truck for a customer who intends to use, rather than resell the truck, incorporating used parts furnished by the customer, the value of the previously used parts shall not be included in the price for which the truck is considered sold by the manufacturer.

[T.D. 7536, 43 FR 13521, Mar. 31, 1978]

**§ 48.4217-1 Lease considered as sale.**

For purposes of Chapter 32 of the Code, the lease of an article by a manufacturer, producer, or importer shall be considered a sale of the article. The term "lease" means a contract or agreement, written or verbal, which gives the lessee an exclusive, continuous right to the possession or use of a particular article for a period of time. The term includes any renewal or extension of a lease or any subsequent lease of the article. However, in the case of the lease of an automobile the sale of which by the manufacturer would be taxable under section 4064, the term includes only the first lease (excluding any renewal or extension of the lease) of such automobile by the manufacturer.

[T.D. 7536, 43 FR 13521, Mar. 31, 1978, as amended by T.D. 8036, 50 FR 29963, July 23, 1985]